

REFERENCE TITLE: bank lending limits

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

HB 2198

Introduced by
Representative Konopnicki

AN ACT

AMENDING SECTION 6-352, ARIZONA REVISED STATUTES; RELATING TO BANK LOANS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 6-352, Arizona Revised Statutes, is amended to
3 read:

4 6-352. Limitations of obligations to a bank: exceptions;
5 definitions

6 A. A bank may lend to a single borrower an amount equal to not more
7 than ~~fifteen~~ TWENTY per cent of its capital, plus an amount equal to an
8 additional ten per cent of its capital if the additional amounts are fully
9 secured by readily marketable collateral which has a market value, as
10 determined by reliable and continuously available price quotations, at least
11 equal to the amount of the loan.

12 B. Each bank shall institute adequate procedures to ensure compliance
13 with subsection A.

14 C. The limitations of subsection A do not apply to:

15 1. Obligations incurred by the assignment, endorsement or guarantee of
16 the obligation of a third person, including an agreement to purchase the
17 third person's obligation or the collateral therefor, if the bank has
18 evaluated the financial condition and responsibility of the third person and
19 as a result of such evaluation accepts the obligation in reliance primarily
20 upon the third person for payment. In such case the obligations of the third
21 person to the bank shall be the sole applicable limitation.

22 2. Obligations, whether general obligations or payable from revenues
23 or special assessment, of the United States or any agency or instrumentality
24 thereof, a federal reserve bank, a state of the United States or a
25 subdivision, instrumentality or public authority organized under the laws of
26 such state.

27 3. Obligations to the extent they are secured by the guarantee,
28 insurance or other like commitment of the United States, an agency or
29 instrumentality of the United States, a federal reserve bank, a state of the
30 United States or a subdivision, instrumentality or public authority organized
31 under the laws of such state, whether the commitment provides for payment in
32 cash or in obligations described in paragraph 2 of this subsection.

33 4. Obligations to the extent they are secured by any obligation
34 described in paragraphs 2 and 3 of this subsection at the value thereof, not
35 exceeding face value, at the time the obligation to the bank is created.

36 5. Obligations to the extent they are secured by deposits in the bank.

37 6. Obligations which are outstanding in the regular process of bank
38 collection or clearing transactions.

39 7. Obligations of a qualified reserve depository of the bank, unless
40 the superintendent has by specific order excluded or limited the obligations
41 of such depository from the exemption of this paragraph.

42 8. Any obligation created in the sale by the bank of any of its
43 property where the bank retains title, lien or security interest in the
44 property sold to secure the obligation.

1 9. Any obligation under the lease by the bank of any personal property
2 acquired by the bank in collecting an obligation to it or the lease of any of
3 its real property or banking equipment.

4 10. That portion of the obligations of a person to the bank which
5 exceed the aggregate funds paid and the value of property delivered by the
6 bank in creating the obligation.

7 11. Any obligation exempt by rule of the superintendent or arising from
8 the sale of any assets of the bank in a transaction which has been approved
9 by the superintendent.

10 D. If the bank participates in an obligation with another obligee, the
11 limitations of this section shall be applicable only to the extent of the
12 bank's participation.

13 E. If the value of collateral for a loan which is required to be fully
14 secured under subsection A falls below one hundred per cent of the
15 outstanding loan, the loan must be brought into conformance within five
16 business days, except if judicial proceedings, regulatory actions or other
17 extraordinary occurrences prevent the bank from taking action.

18 F. ~~For the purposes of this section:~~

19 1. F. A renewal of a loan or a modification and extension of original
20 repayment terms are not deemed to be a new loan or an extension of credit
21 except in instances in which interest on the renewed loan or extension of
22 credit is capitalized or additional money is advanced.

23 4. G. Financial instruments may be denominated in foreign currencies
24 which are freely convertible to United States dollars. If denominated and
25 payable in a currency other than that of the loan or extension of credit
26 which it secures, the bank's procedures adopted pursuant to subsection B
27 shall require that the collateral be revalued at least monthly using
28 appropriate foreign exchange rates in addition to being valued at current
29 market value.

30 H. FOR THE PURPOSES OF THIS SECTION:

31 3. 1. "Financial instruments" includes stocks, bonds and debentures
32 traded on a national securities exchange, over the counter margin stocks as
33 defined in regulation U of the federal reserve board, commercial paper,
34 notes, negotiable certificates of deposit, banker's acceptance and shares in
35 money market and mutual funds of the type in which banks may perfect a
36 security interest.

37 2. "Readily marketable collateral" means financial instruments or
38 bullion which are saleable under ordinary circumstances with reasonable
39 promptness at a fair market value determined by quotations based on actual
40 transactions of an auction or a similarly available daily bid and asked price
41 market.